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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,892	02/04/2004	Jerry Sommers	MARRP0102US	3876
7590 11/07/2005				
Kenneth W. Fafrak Renner, Otto, Boisselle & Sklar, LLP Nineteenth Floor 1621 Euclid Avenue Cleveland, OH 44115			EXAMINER WAGGONER, TIMOTHY R	
			ART UNIT 3651	PAPER NUMBER

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/771,892	Applicant(s) SOMMERS, JERRY	
	Examiner Timothy R. Waggoner	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claim 6 is objected to because of the following informalities: In line 1 the phrase "at least on vertical wall" is unclear. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9, 13-14, 17-19, and 21-24 rejected under 35 U.S.C. 102(b) as being anticipated by Ito USPN 4,469,243.

Ito discloses a dispensing box and method thereof comprising:

- (Re claim 1,17) "a container" (figure 7)
- (Re claim 1,17) "a divider" (32 figure 6)
- (Re claim 1,17) "a plurality of dispensing outlets" (44B figure 6A)

Ito further discloses:

- (Re claim 2,18) "dispensing outlets are perforated outlets" (44B figure 6A)
- (Re claim 3,19) "dispensing outlets are on a common wall" (44 figure 6)
- (Re claim 5,21,22) "divider comprises at least one substantially vertical wall attached to base" (32 figure 6)
- (Re claim 6,) "vertical wall and the base are formed as an integral unit" (figure 4)

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- (Re claim 7) "center portion of the base is raised about side portion" (38A 38C figure 6)
- (Re claim 8) "base comprises a substantially planar member" (36A 36b figure 6)
- (Re claim 9,23,24) "permanently attached to at least one container wall" (figure 4)
- (Re claim 13) "divider isolates each of the plurality of compartments" (figure 6)
- (Re claim 14) "formed from a material in the group consisting of paper, cardboard, plastic, and metal" (figure 4)

Claims 10, 15, 16, 25-26, and 30-31 rejected under 35 U.S.C. 102(b) as being anticipated by Flygenring USPN 5,901,875.

Flygenring discloses a dispensing box and method thereof comprising:

- (Re claim 10,25,26) "divider floats within a plurality of container walls" (4 figure 3)
- (Re claim 15) "a lid, said lid cooperatively attached to container" (figure 3)
- (Re claim 16,30,31) "lid extends over the dispensing outlets" (figure 3)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Ito USPN 4,469,243 in view of Ghabriel USPN 6,296,143. Ito does not disclose openings on different walls. Ghabriel teaches having openings on different sides for dispensing. It would be obvious to have openings on more than one side present on Ito to improve accessibility to the product being dispensed as taught by Ghabriel.

Claims 11-12 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito USPN 4,469,243 in view of Heckrodt USPN 3,826,361. Ito does not disclose the dispensing of bags. Heckrodt teaches dispensing plastic bags from boxes with perforated openings. It would be obvious to use Ito to dispense bags in view of the teachings of Heckrodt to increase the possible uses for Ito.

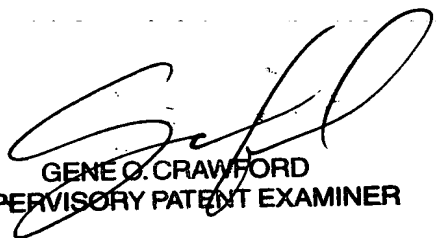
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571)272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TRW



GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER